



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2014-0342; FRL-9918-67-Region-3]

Approval and Promulgation of Implementation Plans; Pennsylvania; Pennsylvania Regional Haze State Implementation Plan Revision - Particulate Matter Best Available Retrofit Technology Limit for the Cheswick Power Plant in Allegheny County

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a revision to the Pennsylvania State Implementation Plan (SIP) submitted by the Commonwealth of Pennsylvania through the Pennsylvania Department of Environmental Protection (PADEP). This SIP revision addresses an error in the Best Available Retrofit Technology (BART) requirements for Boiler Number 1 of the Cheswick Generating Station (Cheswick) in Allegheny County. EPA is proposing approval of the portion of Pennsylvania's SIP revision addressing the particulate matter (PM) BART requirements as it is in accordance with the requirements of the Clean Air Act (CAA) and EPA's rules for BART.

DATES: Comments must be received on or before **[insert 30 days from the date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2014-0342, by one of the following methods:

- A. www.regulations.gov. Follow the on-line instructions for submitting comments.

B. E-mail: fernandez.cristina@epa.gov.

C. Mail: EPA-R03-OAR-2014-0342, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2014-0342. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA

cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814-2166, or by e-mail at shandruk.irene@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Regional haze is visibility impairment that is produced by a multitude of sources and activities which are located across a broad geographic area and emit fine particles (e.g., sulfates, nitrates,

organic carbon, elemental carbon, and soil dust) and their precursors (*e.g.*, sulfur dioxide (SO₂), nitrogen oxides (NO_x), and in some cases, ammonia (NH₃) and volatile organic compounds (VOC)). Fine particle precursors react in the atmosphere to form fine particulate matter (PM_{2.5}), which impairs visibility by scattering and absorbing light. Visibility impairment reduces the clarity, color, and visible distance that one can see. Section 169A of the CAA establishes as a national goal the "prevention of any future, and the remedying of any existing, impairment of visibility in mandatory class I Federal areas which impairment results from manmade air pollution" and requires SIPs for states whose emissions may reasonably be anticipated to cause or contribute to visibility impairment in Class I areas to contain emission limits, compliance schedules and other measures as may be necessary to make reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas. A regional haze SIP generally must include, among other measures, source-specific BART emission limits for each source subject to BART. A detailed discussion of the requirements of the regional haze program can be found in our earlier notice proposing action on Pennsylvania's regional haze SIP. *See* 77 FR 3984 (January 26, 2012).

On December 20, 2010, PADEP submitted revisions to the Pennsylvania SIP to address regional haze requirements as required by the CAA. Among the measures included in the SIP submission and approved by EPA was a coarse PM (PM₁₀) BART emission limit for Cheswick of 361 tons per year (tpy). PADEP has determined that this limit was set in error and has submitted this SIP revision to correct the PM₁₀ BART emission limit. EPA originally finalized a limited approval

of the Pennsylvania regional haze SIP on July 13, 2012. 77 FR 41279. Our approval was limited due to Pennsylvania's reliance upon the Clean Air Interstate Rule (CAIR) for sulfur dioxide (SO₂) and nitrogen oxide (NO_x) BART for electric generating units (EGUs). On June 7, 2012, EPA had finalized the limited disapproval of Pennsylvania's regional haze SIP (and other states' regional haze SIPs that relied similarly on CAIR) due to its reliance on CAIR as EPA had issued the Cross State Air Pollution Rule (CSAPR) to replace CAIR. 77 FR 33641. EPA also finalized a limited Federal Implementation Plan (FIP) for Pennsylvania and other states, which merely substituted reliance on EPA's more recent CSAPR NO_x and SO₂ trading programs for EGUs for the SIP's reliance on CAIR. *See* 77 FR 33641.¹

For the December 20, 2010 regional haze SIP, the Allegheny County Health Department (ACHD) had performed a BART analysis for Cheswick. In the May 4, 2009 Cheswick BART review memo, ACHD stated it performed its BART analysis in accordance with 40 CFR 51.308(e) and 40 CFR Part 51, Appendix Y, Guidelines for BART Determinations Under the Regional Haze Rule (BART Guidelines).² The May 4, 2009 Cheswick BART review memo was included in Pennsylvania's December 20, 2010 regional haze SIP (in Appendix J) and recommended that the conditions of Cheswick's operating permit and installation permits

¹ In response to a petition for review of EPA's limited approval of Pennsylvania's regional haze SIP in the United States Court of Appeals for the Third Circuit, EPA successfully moved for a voluntary remand without vacatur. On April 30, 2014, EPA reissued its final limited approval of the Pennsylvania SIP to implement the Commonwealth's regional haze program for the first planning period through 2018. 79 FR 24340.

² The BART Guidelines provide a process for making BART determinations that states and local agencies can use in implementing the regional haze BART requirements on a source-by-source basis, as provided in 40 CFR 51.308(e)(1).

satisfied BART for PM for Cheswick, an EGU in Allegheny County.^{3,4} In the December 20, 2010 regional haze SIP submittal, Pennsylvania specifically included a PM₁₀ BART emission limit for Cheswick of 361 tpy in error even though ACHD had recommended permit conditions as BART.⁵ After EPA proposed limited approval of the Pennsylvania regional haze SIP on January 26, 2012 (77 FR 3984), the owner of Cheswick commented that Cheswick's BART emission limits including PM₁₀ were inconsistent with the plant's current permits which had a higher allowable PM₁₀ emissions limitation than 361 tpy. Cheswick's owner also commented that the 361 tpy potential to emit PM₁₀ included in the May 4, 2009 Cheswick BART review memo in the "Process Description" section was derived from Cheswick's 1995 Title V permit application which contained an error in the calculation of Cheswick's potential to emit PM₁₀.⁶

II. Summary of SIP Revision

Since EPA first approved the regional haze SIP in July 2012, ACHD has updated the BART review memo for Cheswick to reflect the current control devices, emission limits, and regulations to which Cheswick is subject. This March 25, 2014 SIP revision revises the incorrect PM₁₀ emission limit of 361 tpy to 180 pounds per hour (lbs/hr) for Boiler No. 1 and also seeks removal of the errant inclusion of an SO₂ emission limit of 67,452 tpy and a NO_x emission limit

³ Cheswick was formerly owned by Orion Power, but is presently owned by NRG Energy.

⁴ After the May 4, 2009 BART review memo, ACHD issued for Cheswick an Installation Permit (IP No. 0054-I004a) and a Title V Operating Permit (TVOP No. 0054).

⁵ The December 20, 2010 regional haze SIP submittal included the following BART emission limits for Cheswick: 67,452 tpy of SO₂, 10,840 tpy of NO_x, and 361 tpy of PM₁₀. According to Pennsylvania and explained in the March 25, 2014 SIP submittal, these emission limits were included in error.

⁶ The comments from the owner of Cheswick on the proposed Cheswick BART are available in the rulemaking docket from our approval of the Pennsylvania regional haze SIP, docket number EPA-R03-OAR-2012-0002, at www.regulations.gov.

of 10,840 tpy for Cheswick's Boiler No. 1 from the regional haze SIP because Pennsylvania intended CAIR as SO₂ and NO_x BART for all EGUs including Cheswick.⁷ PADEP submitted this SIP revision in accordance with the visibility and regional haze provisions of sections 169A and 169B of the CAA and the regional haze rule at 40 CFR 51.308.

PADEP stated in its submittal that the SO₂ and NO_x BART emission limits for Cheswick were included in the BART table in its December 10, 2010 regional haze SIP in conflict with the ACHD Cheswick BART review memo and the narrative portion of the SIP submittal which discussed CAIR as satisfying SO₂ and NO_x BART for BART-eligible EGUs in Pennsylvania. In this rulemaking, EPA is proposing to approve the corrected PM₁₀ limit of 180 lbs/hr and will take later, separate action concerning the SO₂ and NO_x BART portion of the March 25, 2014 SIP revision submittal.

PADEP explained in its March 25, 2014 SIP revision that the PM₁₀ BART emission limit of 361 tpy for Boiler No. 1 at Cheswick included in the December 20, 2010 regional haze SIP was found to be incorrect during the public comment period for EPA's proposed approval of the regional haze SIP. The December 20, 2010 regional haze SIP submittal included the 361 tpy PM₁₀ limit because at the time PADEP was assessing the appropriate BART limits, it decided to base the PM₁₀ BART limit on the May 4, 2009 BART review memo for Cheswick which referred to conditions of certain permits for Cheswick as BART, and the review memo listed Cheswick's

⁷ The March 25, 2014 SIP revision also updates the owner's name of Cheswick from Orion Power to GenOn Power Midwest LP and updates the permit numbers and dates of issuance for Cheswick's Boiler No. 1. EPA notes the present owner of Cheswick is NRG Energy.

potential to emit at 361 tpy. However, on April 20, 2010, ACHD issued an Installation Permit (IP No. 0054-I004a) and a Title V operating permit (TVOP No. 0054) for Cheswick with a PM₁₀ limit of 180 lbs/hr.⁸ During the permitting process in 2010, ACHD discovered the PM₁₀ potential to emit included in the May 4, 2009 BART review memo was incorrect. Despite the PM₁₀ emission limit in Cheswick's permits of 180 lbs/hr and discovery of the incorrect PM₁₀ potential to emit, the December 20, 2010 regional haze SIP submission incorrectly contained the 361 tpy PM₁₀ limit as BART for Cheswick. This March 25, 2014 SIP revision replaces the incorrect PM₁₀ emission limit of 361 tpy with the correct BART PM₁₀ emission limit for Boiler No. 1 of 180 lbs/hr, which includes condensable particulate matter, but excludes sulfuric acid mist (H₂SO₄). The 180 lbs/hr PM₁₀ emission limit is the applicable PM₁₀ emissions limitation in Cheswick's permits. This SIP revision also contains corrected permit numbers and permit issuance dates for Boiler No. 1 of the Cheswick Plant.

ACHD updated the BART analysis for Boiler No. 1 at Cheswick with a new memo on November 7, 2012. The November 7, 2012 BART review memo includes the current control devices in operation at Cheswick and the correct, applicable emission limits and regulations. The November 7, 2012 BART review memo describes ACHD's consideration of the five statutory BART factors for Cheswick and explained that Cheswick has the most stringent controls installed such that the flue gas stream is not allowed to bypass the SO₂ control, flue gas desulfurization (FGD), or PM control, electrostatic precipitator (ESP) system, and that Cheswick

⁸ According to PADEP, the 180 lbs/hr PM₁₀ emission limit equates to 788 tpy for Cheswick.

has a new, shorter stack. The November 7, 2012 BART review memo indicated the PM₁₀ emission limit is in two Federally-enforceable permits (an Installation Permit and a Title V Permit), and that two separate modeling studies show that visibility impacts from Cheswick are minimal even without considering SO₂ removal by the FGD or the newer, shorter stack. The review memo concluded that additional controls were not warranted given the minimal visibility impact of 0.0336 deciviews (dv) from the Cheswick Plant.

PADEP included the November 7, 2012 Cheswick BART review memo in the March 25, 2014 SIP revision and recommends the PM₁₀ emission limit of 180 lbs/hr as BART for Cheswick because the November 7, 2012 review memo followed the BART Guidelines and showed that there are minimal visibility impacts to Class I areas and that additional controls were not cost effective given the visibility impact of 0.0336 dv. The modeling of potential visibility impacts from Boiler No. 1 for purposes of the May 4, 2009 ACHD review memo was conducted prior to the installation of the FGD unit for SO₂ control and the construction of a new stack which is 198.5 feet shorter than the previous stack. The modeled analysis was done by the Northeast States for Coordinated Air Use Management (NESCAUM) for the Mid-Atlantic/Northeast Visibility Union (MANE-VU). BART modeling information provided independently by Cheswick's owner and operator produced comparable results. PADEP and ACHD assert that the reductions in sulfur oxides and PM₁₀ emissions due to the FGD installation as well as the significantly shorter stack will reduce even further the visibility impacts from Boiler No. 1 from what was originally modeled for Cheswick. Therefore, in the March 25, 2014 SIP revision, PADEP states that the revised BART PM₁₀ emission limit will not interfere with any applicable

CAA requirements, particularly the visibility and regional haze provisions of sections 169A and 169B of the CAA, and the regional haze regulations codified at 40 CFR 51.308.

III. EPA's Analysis of SIP Revision for PM₁₀ BART Limit

EPA proposes to approve the revised PM₁₀ emission limit of 180 lbs/hr for Cheswick based on the explanation provided by PADEP in its SIP submittal as the previous limit of 361 tpy was incorrectly determined by ACHD and PADEP and was an error. The May 4, 2009 BART review memo for Cheswick referred to current permit conditions for Cheswick as the recommended PM₁₀ BART limit. On April 20, 2010, ACHD had revised an Installation Permit (IP No. 0054-I004a) and issued a Title V Permit (TVOP No. 0052) for Cheswick with a PM₁₀ limit of 180 lbs/hr. No permit for Cheswick had ever contained a 361 tpy PM₁₀ limit, and ACHD discovered the error with the potential to emit calculation of PM₁₀ while issuing the permits in 2010. Despite the discovery of the erroneous PM₁₀ potential to emit calculation and the new PM₁₀ emission limit of 180 lbs/hr, the December 20, 2010 regional haze SIP submission incorrectly recommended the 361 tpy PM₁₀ calculation as BART for Cheswick.

PADEP has explained the basis for its determination that the limit of 180 lbs/hr is appropriate for BART. In the November 7, 2012 revised BART review memo for Cheswick, ACHD recommended the existing PM₁₀ BART emission rate of 180 lbs/hr after considering the five CAA statutory factors for BART and following EPA's BART Guidelines in 40 CFR Part 51, Appendix Y. In its review, ACHD evaluated retrofit control technologies, eliminated technically

infeasible options and evaluated effectiveness and impacts of the remaining options. The ACHD's conclusion for Cheswick was that the plant already had the most stringent controls available for a coal-fired boiler, had Federally-enforceable permit limits for PM₁₀ (Installation Permit and Title V Permit), as well as other FGD operating restrictions in Federally-enforceable permits, and had minimal estimated visibility impacts from PM₁₀ emissions on Class I areas. Most of the modeling which supports the BART determinations in the Pennsylvania regional haze SIP was conducted by NESCAUM for MANE-VU in September 2006 for individual BART-eligible sources using CALPUFF. The MANE-VU modeling was in accordance with the BART Guidelines and was used by Pennsylvania to assess the degree of visibility improvement that could result from installation of BART controls. This was included in the December 20, 2010 Pennsylvania regional haze SIP as Appendix I.⁹ The minimal visibility impact from Cheswick's emissions on the most impacted Class I area (Otter Creek Wilderness Area) of 0.0336 dv is from the MANE-VU CALPUFF modeling included in the December 20, 2010 regional haze SIP which was conducted prior to installation and operation of the FGD and its lower stack.

EPA also analyzed the source-specific January 2007 modeling from AECOM conducted for Cheswick. The AECOM modeling was included in the March 25, 2014 SIP revision and is available in the docket for this rulemaking. The AECOM modeling included cumulative visibility impacts from Cheswick on multiple Class I areas including Dolly Sods Wilderness

⁹ The December 20, 2010 Pennsylvania regional haze SIP submission is available in the EPA rulemaking docket for our approval of the Pennsylvania regional haze SIP, docket number EPA-R03-OAR-2012-0002, at www.regulations.gov.

Area, Otter Creek Wilderness Area and Shenandoah National Park. From our review of the AECOM modeling for Cheswick, EPA concludes Cheswick's cumulative visibility impact of 0.06 dv from its PM₁₀ emissions on these three Class I areas is likewise minimal. Because Cheswick has installed a FGD and a lower stack since the January 2007 modeling, EPA believes Cheswick's visibility impact on these Class I areas has likely been further reduced. EPA finds the corrected PM₁₀ BART emission limit for Boiler No. 1 a reasonable application of the BART statutory factors and BART guidelines considering the controls installed at Cheswick, technical feasibility and cost-effectiveness of additional controls, and Cheswick's minimal visibility impacts as explained in ACHD's November 7, 2012 BART review memo. EPA proposes to approve this SIP revision for Cheswick's PM₁₀ BART limit in accordance with sections 169A and 169B of the CAA.

IV. EPA's Analysis of Section 110(l)

Section 110(l) of the CAA states that "[t]he Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of this chapter." EPA does not interpret section 110(l) to require a full attainment or maintenance demonstration before any changes to a SIP may be approved. Generally, a SIP revision may be approved under section 110(l) if the EPA finds that it will at least preserve status quo air quality, particularly where the pollutants at issue are those for which an area has not been designated nonattainment. EPA does

not believe the proposed approval of the revisions to the Cheswick BART emission limitations will interfere with the CAA requirements for BART or for preventing interference with other states' programs to protect visibility because our proposal is supported by an evaluation that those CAA requirements are met. This SIP revision will correct an error by PADEP in the BART limit determined for Cheswick and approved by EPA in Pennsylvania's regional haze SIP and will replace a BART emission limitation with a limit intended by Pennsylvania which EPA finds reasonable. This SIP revision for the PM₁₀ BART for Cheswick will not result in any substantive changes to other CAA requirements. Cheswick will continue to be subject to CAA requirements for BART.

The revised PM₁₀ emission limitation reflects Cheswick's applicable and enforceable PM₁₀ emission limit which Pennsylvania intended to recommend for Cheswick's BART. EPA does not expect any increase in PM₁₀ emissions from this BART revision and does not expect this revision will interfere with visibility in Class I areas impacted by Cheswick.¹⁰ Thus, EPA does not anticipate the revisions to Cheswick's BARTs to interfere with neighboring states' ability to achieve reasonable progress goals (RPGs) given Cheswick's minimal visibility impact,

¹⁰ In fact, Cheswick has been subject to this 180 lbs/hr. PM₁₀ emissions rate since April 2010 well before EPA approved the Pennsylvania regional haze SIP in July 2012. Therefore, EPA does not expect any increase in PM₁₀ emissions from this BART revision.

Cheswick's SO₂, NO_x, and PM controls and newer shorter stack, and recent monitored data from neighboring states showing progress towards RPGs.¹¹

EPA also believes that approval of the submitted SIP revision will not interfere with attainment and maintenance of the NAAQS. Cheswick has been subject to the 180 lbs/hr PM₁₀ emission limit since April 2010. While Cheswick is in the Pittsburgh-Beaver Valley nonattainment area for 1997 and 2006 PM_{2.5} NAAQS, this area has had monitored clean data for PM_{2.5} for the last few years.¹² Because Cheswick had the 180 lbs/hr PM₁₀ limit during the time when Pittsburgh-Beaver Valley has monitored attainment, EPA does not anticipate this PM₁₀ BART revision will interfere with attainment or maintenance of the 1997 and 2006 PM_{2.5} NAAQS.^{13,14} EPA believes approval of Pennsylvania's revision will not contribute to conditions of nonattainment or interfere with maintenance of any standard. Thus, EPA finds this SIP revision to Cheswick's

¹¹ EPA notes Cheswick has Selective Catalytic Reduction installed for NO_x controls. For further discussion of progress towards RPGs and current visibility conditions in nearby Class I areas based on the latest available Interagency Monitoring of Protected Visual Environments (IMPROVE) monitoring data, see EPA's approvals of Virginia's and Delaware's five-year progress reports on regional haze at 79 FR 25019 (May 2, 2014) (Virginia) and 79 FR 25506 (May 5, 2014) (Delaware). *See also* 79 FR 10451 (February 25, 2014) (proposed approval of Virginia's progress report) and 79 FR 10442 (February 25, 2014) (proposed approval of Delaware's progress report). EPA's proposed approval of West Virginia's five-year progress report on regional haze is at 79 FR 14460 (March 14, 2014).

¹² EPA finalized a clean data determination for the Pittsburgh-Beaver Valley nonattainment area for 1997 PM_{2.5} NAAQS on October 12, 2012. *See* 77 FR 62147. EPA finalized a clean data determination for the Pittsburgh-Beaver Valley nonattainment area for 2006 PM_{2.5} NAAQS (24-hour standard) on May 2, 2014. *See* 79 FR 25014.

¹³ EPA has not finalized designations of areas for the 2012 PM_{2.5} NAAQS at this time. However, because Cheswick has had the 180 lbs/hr PM₁₀ emission limit since April 2010 and has been in compliance with that limit since 2010 according to stack test data EPA has reviewed from ACHD and Cheswick, EPA does not anticipate approval of this SIP revision will significantly impact the Pittsburgh Beaver Valley area. If the Pittsburgh Beaver Valley area is designated nonattainment, Pennsylvania will be required to submit an attainment plan in accordance with Section 172 of the CAA.

¹⁴ EPA has also not required separate emission limits for each form of particulates for BART, and the BART Guidelines do not specify that states must establish a BART limit for both PM₁₀ and PM_{2.5}. If PM_{2.5} emission limitations are needed for the Pittsburgh-Beaver Valley area to attain any PM_{2.5} NAAQS, ACHD can set such limits when implementing SIP attainment planning requirements in CAA section 172.

PM₁₀ BART complies with Section 110(l) of the CAA and will not interfere with any applicable requirements concerning attainment and reasonable further progress or any other applicable requirement of the CAA, such as the visibility and regional haze provisions of sections 169A and 169B of the CAA.

V. EPA's Proposed Action

EPA is proposing to approve a portion of Pennsylvania's March 25, 2014 revision to its regional haze SIP which revises the PM₁₀ BART emission limitation for Cheswick. EPA will take later, separate action concerning the remainder of the March 25, 2014 SIP revision. This conclusion is based on our review of the March 25, 2014 SIP revision as well as Pennsylvania's December 20, 2010 regional haze SIP submission including technical data and supporting analysis. If approved by EPA, the PM₁₀ emission rate of 180 lbs/hr (including condensables and excluding H₂SO₄) supercedes the previous PM₁₀ BART determination for Cheswick included in the December 20, 2010 regional haze SIP revision. EPA finds Pennsylvania's PM₁₀ BART determination for Cheswick reasonable and finds the revision will not interfere with visibility improvements or any other CAA requirements set forth in sections 110(l), 169A, and 169B of the CAA, as well as in our implementing regulations at 40 CFR 51.308.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with

the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule to approve Pennsylvania's regional haze SIP revision pertaining to Cheswick does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: October 21, 2014.

William C. Early,
Acting Regional Administrator,
Region III.

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